

### **REMARKS / ARGUMENTS**

The present application includes pending claims 1-30, all of which have been rejected. Claims 1, 11, and 21 have been amended. The Applicant respectfully submits that the claims define patentable subject matter.

Claims 1-30 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 7,188,209, issued to Pettey (hereinafter, Pettey). The Applicant respectfully traverses these rejections at least based on the following remarks.

### **REJECTION UNDER 35 U.S.C. § 102**

#### **I. Pettey Does Not Anticipate Claims 1-30**

The Applicant now turns to the rejection of claims 1-30 under 35 U.S.C. 102(e) as being anticipated by Pettey. Without conceding that Pettey qualifies as prior art under 35 U.S.C. 102(e), the Applicant respectfully traverses this rejection as follows. With regard to the anticipation rejections under 102, MPEP 2131 states that “[a] claim is anticipated only if **each and every element** as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” See Manual of Patent Examining Procedure (MPEP) at 2131 (internal citation omitted). Furthermore, “[t]he identical invention must be shown in as complete detail as is contained in the ... claim.” See *id.* (internal citation omitted).

**A. Rejection of Independent Claims 1, 11, and 21**

With regard to the rejection of independent claim 1 under 35 U.S.C. § 102(e), the Applicant submits that Pettey does not disclose or suggest at least the limitation of “negotiating a data rate for transfer of data between said first blade server and at least said second blade server,” as recited by the Applicant in independent claim 1.

Referring to FIG. 1 of Pettey, Pettey discloses that the Ethernet switch 122 only passes data or instructions to the other servers (104 or 106) or to a router. See Pettey, col. 10, lines 21-24. Similarly, in reference to FIG. 19 of Pettey, the Ethernet MAC 1912 transmits packet D to the root complex 1904 via the switch 1910. However, FIGS. 1 and 19, as well as any of the remaining portion of Pettey, do not disclose that any of the switches 122 or 1910 or any of the servers negotiate specific data rates for transferring of the data. In this regard, Pettey does not disclose or suggest at least the limitation of “negotiating a data rate for transfer of data between said first blade server and at least said second blade server,” as recited by the Applicant in independent claim 1.

Moreover, with regard to the rejection of independent claim 1 under 35 U.S.C. § 102(e), the Applicant submits that Pettey also does not disclose or suggest at least the limitation of “transferring data responsive to said received at least said first packet to one or both of said determined at least said second blade

server at said negotiated data rate, and said determined network at one of a second data rate or said negotiated data rate." Accordingly, independent claim 1 is not anticipated by Pettey and is allowable. Independent claims 11 and 21 are similar in many respects to the method disclosed in independent claim 1. Therefore, the Applicant submits that independent claims 11 and 21 are also allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 1.

**B. Rejection of Dependent Claims 2-10, 12-20, and 22-30**

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1, 11, and 21 under 35 U.S.C. § 102(e) as being anticipated by Pettey has been overcome and request that the rejection be withdrawn. Additionally, claims 2-10, 12-20, and 22-30 depend from independent claims 1, 11, and 21, respectively, and are, consequently, also respectfully submitted to be allowable.

The Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 1-30.

**CONCLUSION**

Based on at least the foregoing, the Applicant believes that all claims 1-30 are in condition for allowance. If the Examiner disagrees, the Applicant respectfully requests a telephone interview, and requests that the Examiner telephone the undersigned Attorney at (312) 775-8176.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

A Notice of Allowability is courteously solicited.

Respectfully submitted,

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